

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Planned Parenthood of Maryland, Inc., *et al.* *
v. * Civil No. CCB-20-00361
Alex M. Azar II, Secretary of the United *
States of Health and Human Services, in his *
official capacity, *et al.* *

ORDER

For the reasons stated in the accompanying Memorandum, it is hereby ORDERED that:

1. The plaintiffs' motion for leave to file an amended complaint (ECF 39) is GRANTED;
2. The plaintiffs' motion for class certification (ECF 40) is GRANTED;
3. The plaintiffs Kirsty Hambrick, Rebecca Barson, Mariel DiDato and Tanja Hollander are certified as the representatives of a class pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure. The class is defined as all enrollees in individual-market Affordable Care Act ("ACA") exchange plans whose plans: (1) include coverage of abortion services for which federal funds appropriated to the Department of Health and Human Services ("HHS") may not be used; and (2) are subject to the Separate-Billing Rule's segregation and separate-billing requirements, exclusive of any enrollees who have "opted out" of abortion coverage in such plans, pursuant to the Separate-Billing Rule's opt-out policy;
4. The Court appoints the plaintiffs' counsel from the American Civil Liberties Union Foundation and Brown, Goldstein & Levy, LLP as class counsel;
5. The plaintiffs' motion for summary judgment (ECF 29, ECF 41) is GRANTED;
6. The defendants' motion for summary judgment (ECF 35) is DENIED;

7. The rule challenged in this case, set forth in Patient Protection and Affordable Care Act; Exchange Program Integrity, Final Rule, 84 Fed. Reg. 71,674 (Dec. 27, 2019) (to be codified at 45 C.F.R. pts. 155, 156), as modified by Patient Protection and Affordable Care Act; Exchange Program Integrity, Notice of Correction, 85 Fed. Reg. 2,888 (Jan. 17, 2020) and Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program, Interim Final Rule, 85 Fed. Reg. 27,550 (May 8, 2020), is declared invalid under the Administrative Procedure Act, 5 U.S.C. § 706;
8. The rule is hereby vacated and may not be enforced by the defendants or their respective agencies and employees;
9. The Clerk shall CLOSE this case; and
10. The Clerk shall SEND copies of this Order and the accompanying Memorandum to counsel of record.

7/10/20

Date

/s/

Catherine C. Blake
United States District Judge